HIGH COURT OF UTTARANCHAL AT NAINITAL

First Appeal No. 89 of 2001
Old F.A. No. 396 of 1997

1. State of U.P. through Collector.
   Dehradun
2. The Director, Sports College, Lucknow, U.P.

…. Appellants.

Versus

1. Sri Parmandand S/O Shridhar Prasad,
   Village Raipur, District Dehradun.

…. Respondent.

Sri Nand Parasad, learned Standing Counsel for the appellants.
Sri Ashok Agarwal & Sri Niranjan Bhatt learned counsel for respondent.

Dated April 17, 2006
P.C.: Hon. B.S. Verma, J.

This appeal arises out of the judgment and award dated 28-4-1997, passed by the then Additional District Judge, Dehradun (in short judge) in Land Acquisition Reference Case No. 510 of 1991. Parmanand vs. Collector, Dehradun whereby the learned judge partly allowed the as many as 35 references by a common order and awarded compensation to the claimants determining the market value of the land under acquisition @ 3,73,000/- per acre with a deduction of 25% towards largeness of area from the enhanced amount only as mentioned in the impugned award along with solatium and interest etc.

At the outset, it may be noted that by the common award, the learned Reference Court has decided 35 Land Acquisition Reference. Out of them First Appeals preferred arising out of L.A. Reference Case Nos. 504 of 91, 516 of 1991, 511 of 1991, 506 of 91, 525 of 91, 494 of 91, 497 of 91, 501 of 91, 188 of 91, 503 of 91, 507 of 91, 509 of 91, 522 of 91, 524 of 91, 523 of 91, 508 of 91, 513 of 91, 518 of 91, 521 of 91, 512 of 91, 187 of 91, 505 of 91, 500 of 91, 517 of 91, 498 of 91, 495 of 91, 502A of 91 and 502 of 91 have already been decided by the Division Bench judgment of this Court dated 20-9-2004. In all these appeals as well as the present appeal,

the matter of acquisition related to the same Notification, the award of the Special Land Acquisition Officer is same and the Reference Court vide order dated 284-1997 passed a common judgment in all the aforesaid cases.

Brief facts were that land of village Raipur, Parvadoon, Dehradun measuring 69.99 acres was acquired by the State of U.P. for the purpose of establishing a sports College, for which Notification under Section 4(1) of the Land Acquisition Act (for short the Act) was published in the local newspapers on 18-3-1988, while notification under Section 6 of the Act was published on 30.4.1988. The possession of the acquired properties was taken by the State on 30.12.1988. The Special Land Acquisition Officer (SLA) relying upon the sale transaction dated 19-7-1986 executed by Bhupendra and Surendra in favour of Shri M.M. Ghosal in respect of 0.19 acre land for a consideration of Rs. 20,000/- fixed the market rate of the acquired land-owners before the Collector and consequently reference under Section 18 of the Act was made. The landowners alleged that their land was in every respect fit for residential purposes and it was having all the facilities like roads, light, water, Bazar and important institutions of government of India are located near this land and residential colonies of the employees is situate nearby. The compensation assessed by the S.L.A.O. is inadequate which was based on a wrong exemplar sale deed of lower value, while they should have been paid compensation on the basis of exemplar sale-deed showing the highest value and the land owners claimed the market value @ Rs. 4,00,000/- per acre for their land equally and not at different rates as fixed by the S.L.A.O. The State filed repley alleging that the land in question is away from Abadi and the alleged institutions of Government of India. AT the time of acquisition, there was no road over the acquired land. The compensation has been pad on proper market value on the basis of the exemplar sale-deed.

The learned Reference Court framed necessary issued in the case and afforded opportunity to the parties to lead their respective oral and documentary evidence. In their testimony, the land-owners deposed that they have been paid inadequate compensation, while there was facility of road, water, electricity and police station towards north of their land. It was also stated that cantonment area and road as well as developed market were in the adjoining area in addition to bank, school, bus stop, ordnance factory, Jal Sansthan and residential colonies. They have denied the suggestions made to them to the contrary on behalf of the State. In oral the owners claimed compensation @ Rs. 5,00,000/- per acre and filed certified copies of two sale transactions of the nearby land by which the lands were sold @ Rs. 3,92,400/- and Rs. 4,00,000/- per acre. The sale deeds were executed on 31.8.1987 and 29.8.1987 respectively. Guide map published by Survey of India was also filed to prove the location of their land.

The learned Reference Court after hearing the parties and perusing the evidence on record found that the compensation awarded by the Special Land Acquisition Officer was inadequate. The reference court determined the compensation of acquired land @ Rs. 3,73,000/- per acre. The learned Reference Court also ordered 25% deduction from the actually enhanced amount of compensation towards largeness of area, etc. and on the balance amount, the claimants will be entitled to solatium @ 30% additional compensation @ 12% with interest @ 9% for the first year and from the date of possession till payment @ 15%, as mentioned in the impugned order.

In this appeal, it has been argued that the land under acquisition forms part of a large area of land measuring about 69 acres and the Special Land Acquisition Officer had determined the market value of the specific plots according to their nature, quality and location and the court below erred in increasing the market value

of the land to Rs. 3,73,000/- per acre with a deduction of only 25% on the enhanced amount for all kinds of land.

In the course of arguments, the learned counsel for both the parties have conceded that since as many as 28 First Appeals arising out of same notification and common award passed by the Reference Court have already been decided by the Division bench judgment of this Court as the matter was compromised, therefore, this appeal being squarely covered by the earlier judgment of this Court dated 20-9-2004 be decided in terms of the said judgment. I have gone thought the aforesaid judgment. The controversy involved in the present appeal stands resolved by the judgment dated 20-9-2004. As mentioned earlier, the 28 appeals preferred by the State arising out of the same award and same acquired land have been partly allowed. The present appeal is stands on the same footing. This appeal, therefore, deserves to be partly allowed.

In view of the Division Bench of this Court dated 20-9-2004 passed in First Appeal No. 81 of 2001 State of U.P. and another Vs. Devendra Datt Chamoli and others, the present appeal stands partly allowed. Accordingly, the compensation shall be paid to the respondent after making deduction @ 33/1/3% instead of 25% deduction. No order as to costs.

(B.S. Verma, J.)

RCP